

Official

Office of Workforce Development (OWD) Policy Issuance (PI): No. 99-42

Index: IV

Date: September 21, 1999

To: Michigan Works! Agency (MWA) Directors

Subject: The declaration of rights and responsibilities between multiple local units of government comprising MWAs.

Programs

Affected: All workforce development programs funded and administered by the Michigan Department of Career Development (MDCD).

Purpose: To transmit MDCD policy regarding the preparation and submission of required agreements for MWAs consisting of multiple local units of government.

Background: The Urban Cooperation Act of 1967 (PA 7) and the Intergovernmental Transfers of Functions and Responsibilities Act of 1967 (PA 8) are the only mechanisms by which local units of government may share rights and responsibilities with one another and address the assumption of liability for disallowed costs by each unit of local government. Copies of this legislation are attached (Attachments 1 and 2).

References: Urban Cooperation Act of 1967 (PA 7).

Intergovernmental Transfers of Functions and Responsibilities Act of 1967 (PA 8).

Workforce Investment Act (WIA) of 1998.

Workforce Investment Act; Interim Final Rule, 20 CFR Part 652, published April 15, 1999.

Rescissions: Michigan Job Training Partnership Act (JTPA) Instruction Letter 84-8, "Grant Recipient/Administrative Entity Standards," issued November 2, 1983.

Policy:

PA 7 or PA 8 provides constitutionally authorized methods by which multiple units of local government within a designated local workforce investment area may operate as a single MWA. PA 7 permits the creation of a separate legal or administrative entity to assume rights and responsibilities relating to state and federal workforce development programs. Alternatively, PA 8 permits two or more “political subdivisions” to enter into a contract providing for the transfer of certain functions and responsibilities to one another or to a joint board or commission, as a means of implementing state and federal workforce development programs.

MWAs containing multiple units of government must enter into interlocal agreements pursuant to PA 7 or PA 8. Private for-profit or non-profit corporations may not be parties to PA 7 or PA 8 Interlocal Agreements.

In addition to the PA 7 or PA 8 Interlocal Agreements that serve as the formal legal structure for MWAs consisting of multiple units of local government, section 117(c)(1)(B) of WIA provides for other Local Governmental Agreements that specify the respective roles of the individual chief elected officials.

Section 101(6)(B) of WIA defines chief elected officials, in the case of an MWA including more than one unit of local government, as the individual units of local government designated under the agreement described in section 117(c)(1)(B) of WIA.

Agreement Requirements

Acceptable agreements declaring rights and responsibilities between multiple local units of government (the PA 7 or PA 8 Interlocal Agreement or, as an alternative, the PA 7 or PA 8 Interlocal Agreement submitted in combination with Local Governmental Agreements) must, at a minimum, meet the following three conditions:

1. Specify that all parties are liable for disallowed costs relating to all state and federal workforce development funds received from the MDCD, i.e., not just specific WIA or Work First funding.

The assumption of liability by all parties does not impose 100 percent liabilities on all local units of government within the MWA, but instead allows for the allocation of liability. The PA 7 or PA 8 Interlocal Agreement must specify how liability, with respect to the misuse of workforce development funds, is to be allocated among the local units of government within the MWA.

Attachment 3 contains relevant correspondence relating to the issue of liability.

2. Address the appointment of the members of the local workforce development board (WDB) from the individuals nominated or recommended being members, according to MDCD/OWD Policy Issuance 98-47 (section 117(c)(1)(B) of WIA).

3. Designate the local grant recipient. This may be the entity created under PA 7 or any other qualified entity (section 117(c)(1)(B) of WIA).

Options

MWAs made up of multi-governmental jurisdictions have the option of executing a PA 7 or PA 8 Interlocal Agreement that meets the three required conditions or to use a combination of the two agreements that together meet the three required conditions as follows:

Option 1: Entering into a PA 7 or PA 8 Interlocal Agreement which addresses, at a minimum, the three required conditions (assumption of liability, the appointment of WDB members, and the designation of the local grant recipient), or

Option 2: Executing a PA 7 or PA 8 Interlocal Agreement which, at a minimum, meets the condition concerning liability and a Local Governmental Agreement which, at a minimum, addresses the other two required conditions (the appointment of WDB members and the designation of the local grant recipient).

The PA 7 or PA 8 Interlocal Agreements and other Local Governmental Agreements may also include other conditions, for example, the election of officers, apportionment of voting rights, meetings/minutes/quorums, and staffing.

The chart that follows pictorially describes how MWAs may decide to declare rights and responsibilities using the PA 7 or PA 8 Interlocal Agreements, as well as other Local Governmental Agreements.

AGREEMENT REQUIREMENTS					
	PA7 or PA8 Interlocal Agreement			Local Governmental Agreement (LGA)	
	Required	Required if no LGA	Optional	Required if not in PA 7/8	Optional
PA 7/8 REQUIRED CONDITION					
1. Assumption of Liability *	x				
PA 7/8 or LGA REQUIRED CONDITIONS					

AGREEMENT REQUIREMENTS					
	PA7 or PA8 Interlocal Agreement			Local Governmental Agreement (LGA)	
	Required	Required if no LGA	Optional	Required if not in PA 7/8	Optional
1. Appointment of Members of the Local WDB		x		x	
2. Designation of the Local Grant Recipient		x		x	
PA 7/8 or LGA OPTIONAL CONDITIONS **					
1. Election of Officers			x		x
2. Apportionment of Voting Rights			x		x
3. Meetings/Minutes/Quorums			x		x
4. Staffing			x		x

* Terms of liability must be addressed in PA 7 or PA 8 Interlocal Agreements.

** Examples of optional conditions are not all inclusive.

Approval Process for PA 7 and PA 8 Interlocal Agreements

Executed PA 7 and PA 8 Interlocal Agreements submitted for review and approval must include, as attachments, certified copies of resolutions of the governing bodies of all units of local government approving the agreement and its execution.

The review and approval process established for PA 7 Interlocal Agreements include:

<u>Party</u>	<u>Responsibility</u>
OWD, MDCCD	Reviews agreement for compliance with department policy and forwards to the Governor's office for review and approval.
Governor	Reviews agreement and forwards to the Office of Attorney General (OAG) to review for compliance with both state and federal laws and regulations. Approves agreement when deemed compliant by OAG. Notifies MWA of approval.
MWA	Upon final approval, files agreement with the County Clerk of each county where a party to the agreement is located and with the Secretary of State.

PA 8 Interlocal Agreements will be subject to the following review process:

<u>Party</u>	<u>Responsibility</u>
OWD, MDCD	Reviews agreement for compliance with department policy. Notifies MWA of acceptance.
MWA	Files agreement with the Secretary of State.

Action: PA 7 or PA 8 Interlocal Agreements
MWAs consisting of multiple units of local government shall submit a copy of the PA 7 or PA 8 Interlocal Agreement, based on the instructions incorporated in this policy issuance, for review by November 15, 1999, to the MDCD at the following address:

Mr. Tom Kirksey, Chief
Workforce Training Division
Office of Workforce Development
Michigan Department of Career Development
Victor Building, 5th Floor
201 North Washington Square
Lansing, Michigan 48913

Other Local Governmental Agreements

MWAs, consisting of multiple units of local government electing not to incorporate all of the required conditions in the PA 7 or PA 8 Interlocal Agreement, shall develop and submit a Local Governmental Agreement, based on the instructions incorporated in this policy issuance, along with the PA 7 or PA 8 Interlocal Agreement, by November 15, 1999, to the MDCCD/OWD.

Inquiries: Questions regarding this policy issuance should be directed to your JTPA state coordinator.

The information contained in this policy issuance will be made available in alternative format (large type, audio tape, etc.), upon special request received by this office.

Expiration

Date: Continuing

Signed

Robert T. Pendleton, Director
Office of Workforce Development

RTP:MSW:jl
Attachments

ATTACHMENT 1

URBAN COOPERATION ACT OF 1967 Act 7 of 1967 (Ex. Sess.)

1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968;--Am. 1981, Act 17, Imd. Eff.

Apr. 29, 1981;--Am. 1987, Act 286, Imd. Eff. Jan. 6, 1988;--Am. 1989, Act 138, Imd. Eff. June 29, 1989;--Am. 1998, Act 169, Eff. Mar. 23, 1999

AN ACT to provide for interlocal public agency agreements; to provide standards for those agreements and for the filing and status of those agreements; to permit the allocation of certain taxes or money received from tax increment financing plans as revenues; to permit tax sharing; to provide for the imposition of certain surcharges; to provide for additional approval for those agreements; and to prescribe penalties and provide remedies.

The People of the State of Michigan Enact

124.501 Urban cooperation act; short title. [M.S.A. 5.4088(1)]

Sec. 1.

This act shall be known and may be cited as the "urban cooperation act of 1967."

History: 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968

124.502 Definitions. [M.S.A. 5.4088(2)]

Sec. 2.

As used in this act:

(a) "Interlocal agreement" means an agreement entered into under this act.

(b) "Local governmental unit" means a county, city, village, township, or charter township.

(c) "Province" means a province of the Dominion of Canada.

(d) "Property" means any real or personal property, as described in section 34c of the general property tax act, Act No. 206 of the Public Acts of 1893, being section 211.34c of the Michigan Compiled Laws.

(e) "Public agency" means a political subdivision of this state or of another state of the United States or of the Dominion of Canada,

including, but not limited to, state government; a county, city, village, township, charter township, school district, single or multipurpose special district, or single or multipurpose public authority; provincial government, metropolitan government, borough, or other political subdivision of the Dominion of Canada; an agency of the United States government; or a similar entity of any other states of the United States and of the Dominion of Canada.

(f) "State" means a state of the United States.

History: 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968;--Am. 1987, Act 286, Imd. Eff. Jan. 6, 1988;--Am. 1995, Act 108, Imd. Eff. June 23, 1995

Compiler's Notes:

Section 2 of Act 286 of 1987 provides:

An interlocal agreement for an authorized publicly-owned undertaking that is executed before the effective date of this amendatory act and that includes in its provisions a method or formula for equitably providing for and allocating revenues as authorized by section 5 of the urban cooperation act of 1967, Act No. 7 of the Public Acts of the Extra Session of 1967, being section 124.505 of the Michigan Compiled Laws, is validated and is not affected by this amendatory act.

Section 2 of Act 108 of 1995 provides:

An interlocal agreement for a publicly-authorized undertaking that is executed before the effective date of this amendatory act and that includes in its provisions a method or formula for equitably providing for and allocating revenues as authorized by section 5 or 5a of the urban cooperation act of 1967, Act No. 7 of the Public Acts of the Extra Session of 1967, being sections 124.505 and 124.505a of the Michigan Compiled Laws, is validated and is not affected by this amendatory act.

124.503 Conflicting statutory provisions. [M.S.A. 5.4088(3)]

Section 3

If any provision of this act conflicts with any other statute of this state providing for the authorization or performance of joint or cooperative agreements or undertakings between public agencies of this state or between public agencies of this state and public agencies of other states or of the Dominion of Canada, the provisions of such other statutes shall control.

History: 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968

124.504 Joint exercise of powers. [M.S.A. 5.4088(4)]

Sec. 4.

A public agency of this state may exercise jointly with any other public agency of the state or with a public agency of any other state of the United States or with a public agency of the Dominion of Canada or with any public agency of the United States government, any power, privilege or authority which such agencies share in common and which each might exercise separately.

History: 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968

124.505 Joint exercise of power by contract; interlocal agreement provisions.
[M.S.A. 5.4088(5)]

Sec. 5.

A joint exercise of power pursuant to this act shall be made by contract or contracts in the form of an interlocal agreement which may provide for:

(a) The purpose of the interlocal agreement or the power to be exercised and the method by which the purpose will be accomplished or the manner in which the power will be exercised.

(b) The duration of the interlocal agreement and the method by which it may be rescinded or terminated by any participating public agency prior to the stated date of termination.

(c) The precise organization, composition, and nature of any separate legal or administrative entity created in the interlocal agreement with the powers designated to that entity.

(d) The manner in which the parties to the interlocal agreement will provide for financial support from the treasuries that may be made for

the purpose set forth in the interlocal agreement, payments of public funds that may be made to defray the cost of such purpose, advances of public funds that may be made for the purposes set forth in the interlocal agreements and repayment of the public funds, and the personnel, equipment, or property of 1 or more of the parties to the agreement that may be used in lieu of other contributions or advances.

(e) The manner in which funds may be paid to and disbursed by any separate legal or administrative entity created pursuant to the interlocal agreement.

(f) A method or formula for equitably providing for and allocating revenues, including, in the case of an authorized undertaking that is publicly owned at the time the interlocal agreement is entered into or becomes publicly owned during the time the interlocal agreement is in effect, revenues derived by or payable to any participating party or any other public agency which revenues directly or indirectly result from that undertaking, whether the revenues are in the form of ad valorem taxes on real or personal property, taxes on income, specific taxes or funds made available by the state in lieu of ad valorem property taxes or local income taxes, any other form of taxation, assessment, levy, or impost, or any money paid under or which revert from a tax increment financing plan. The interlocal agreement may also provide a method or formula equitably providing for and allocating revenues derived from a federal or state grant or loan, or from a gift, bequest, grant, or loan from a private source. The interlocal agreement may also provide for a method or formula for equitably allocating and financing the capital and operating costs, including payments to reserve funds authorized by law and payments of principal and interest on obligations. Each method or formula shall be established by the participating parties to the interlocal agreement on a ratio of full valuation of real property, on the basis of the amount of services rendered or to be rendered, on the basis of benefits received or conferred or to be received or conferred, or on any other equitable basis, including the levying of taxes or assessments on the entire area serviced by the parties to the interlocal agreement, subject to such limitations as may be contained in the constitution and statutes of this state, to pay those capital and operating costs.

(g) The manner of employing, engaging, compensating, transferring, or discharging necessary personnel, subject both to the provisions of applicable civil service and merit systems, and the following restrictions:

(i) The employees who are necessary for the operation of an undertaking created by an interlocal agreement, shall be transferred to and appointed as employees subject to all rights and benefits. These

employees shall be given seniority credits and sick leave, vacation, insurance, and pension credits in accordance with the records or labor agreements from the acquired system. Members and beneficiaries of any pension or retirement system or other benefits established by the acquired system shall continue to have rights, privileges, benefits, obligations, and status with respect to such established system. The political subdivisions to which the functions or responsibilities have been transferred shall assume the obligation of any transportation system acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare, and pension or retirement provisions for employees. If the employees of an acquired system were not guaranteed sick leave, health and welfare, and pension or retirement pay based on seniority, the political subdivision shall not be required to provide these benefits retroactively.

(ii) An employee who is transferred to a position with the political subdivision shall not, by reason of the transfer, be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefits that the employee enjoyed as an employee of the acquired system.

(h) The fixing and collecting of charges, rates, rents, fees, loan repayments, loan interest rates, or other charges on loans, where appropriate, and the making and promulgation of necessary rules and regulations and their enforcement by or with the assistance of the participating parties to the interlocal agreement.

(i) The manner in which purchases shall be made and contracts entered into.

(j) The acquisition, ownership, custody, operation, maintenance, lease, or sale of real or personal property.

(k) The disposition, division, or distribution of any property acquired through the execution of such interlocal agreement.

(l) The manner in which, after the completion of the purpose of the interlocal agreement, any surplus money shall be returned.

(m) The acceptance of gifts, grants, assistance funds, or bequests and the manner in which those gifts, grants, assistance funds, or bequests may be used for the purpose set forth in the interlocal agreement.

(n) The making of claims for federal or state aid payable to the individual or several participants on account of the execution of the interlocal agreement.

(o) The manner of responding for any liabilities that might be incurred through performance of the interlocal agreement and insuring against any such liability.

(p) The adjudication of disputes or disagreements, the effects of failure of participating parties to pay their shares of the costs and expenses, and the rights of the other participants in such cases.

(q) The manner in which strict accountability of all funds shall be provided for and the manner in which reports, including an annual independent audit, of all receipts and disbursements shall be prepared and presented to each participating party to the interlocal agreement.

(r) The manner of investing surplus funds or proceeds of grants, gifts, or bequests to the parties to the interlocal agreement under the control of a legal or administrative entity created under section 7.

(s) Any other necessary and proper matters agreed upon by the participating public agencies.

History: 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968;--Am. 1981, Act 17, Imd. Eff. Apr. 29, 1981;--Am. 1985, Act 10, Imd. Eff. Apr. 15, 1985

Compiler's Notes:

Section 2 of Act 17 of 1981 provides: "This act is intended to be curative in nature, and all interlocal agreements which have been approved under section 10 of Act No. 7 of the Public Acts of the Extra Session of 1967, being section 124.510 of the Michigan Compiled Laws, prior to the effective date of this amendatory act, are hereby validated."

124.505a Interlocal agreement for sharing of revenue; contents; decision to enter into agreement; public hearing; referendum; petition; assessment, levy, collection, and distribution of taxes; public policy. [M.S.A. 5.4088(5a)]

Sec. 5a. (1) Upon approval of the legislative body of each contracting local governmental unit, 2 or more local governmental units that levy a property tax under the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, may enter into an interlocal agreement for the sharing of all or a portion of revenue derived by and for the benefit of a local governmental unit entering into that agreement, which revenue results from the levy of general ad valorem property taxes or specific taxes

levied in lieu of general ad valorem property taxes upon any property.

(2) An interlocal agreement under this section may include all necessary and proper matters and shall specify at least all of the following:

(a) The duration of the agreement and the method by which the agreement may be rescinded or terminated by a contracting local governmental unit before the stated date of termination.

(b) A description of the property upon which the taxes to be shared are levied, expressed in terms of type of property or location of property, including a parcel identification number, if any.

(c) The formula or formulas for sharing the tax revenue to be shared.

(d) A schedule and method of distribution of the shared tax revenue.

(e) That the agreement may be terminated or rescinded by a referendum of the residents of a local governmental unit that is a party to the agreement not more than 45 days after the approval of the agreement by the governing body of the local governmental unit.

(3) A decision to enter into an agreement under this section shall be made by a majority vote of the members elected and serving on the legislative body of each affected local governmental unit. The legislative body of each local governmental unit affected by a proposed interlocal agreement under this section shall hold at least 1 public hearing before entering into an agreement under this section. Notice of the hearing shall be given in the same manner provided by the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(4) If within 45 days of the meeting at which an interlocal agreement is approved by a governmental unit under subsection (3) a petition is signed by a minimum of 8% of the registered electors of that local governmental unit voting in the last general election before the adoption of the agreement, a referendum shall be held in that local governmental unit at the next regularly scheduled election or at a special election held for this purpose. If a majority of the electors of the local governmental unit voting on the agreement approve the agreement, the local governmental unit may enter into the agreement. If a petition is not filed as provided in this section, the local governmental unit may enter into the interlocal agreement.

(5) The assessment, levy, collection, and distribution of taxes shall be in accordance with Act No. 206 of the Public Acts of 1893 and the

statutes governing specific taxes levied in lieu of general ad valorem property taxes. The public policy of this state is for local governmental units to avoid entering into an interlocal agreement under this section if that interlocal agreement has the effect of transferring employment from 1 or more local governmental units in this state to 1 or more of the local governmental units entering into the agreement.

History: Add. 1987, Act 286, Imd. Eff. Jan. 6, 1988;--Am. 1995, Act 108, Imd. Eff. June 23, 1995

Compiler's Notes:

Section 2 of Act 286 of 1987 provides: "An interlocal agreement for an authorized publicly-owned undertaking that is executed before the effective date of this amendatory act and that includes in its provisions a method or formula for equitably providing for and allocating revenues as authorized by section 5 of the urban cooperation act of 1967, Act No. 7 of the Public Acts of the Extra Session of 1967, being section 124.505 of the Michigan Compiled Laws, is validated and is not affected by this amendatory act."

Section 2 of Act 108 of 1995 provides: "An interlocal agreement for a publicly-authorized undertaking that is executed before the effective date of this amendatory act and that includes in its provisions a method or formula for equitably providing for and allocating revenues as authorized by section 5 or 5a of the urban cooperation act of 1967, Act No. 7 of the Public Acts of the Extra Session of 1967, being sections 124.505 and 124.505a of the Michigan Compiled Laws, is validated and is not affected by this amendatory act."

124.505b Violation of {Sect}{Sect} 168.1 to 168.992 applicable to petitions; penalties.

Sec. 5b.

A petition under section 5a or 8a, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 169, Eff. Mar. 23, 1999

124.505b.added Violation of {Sect}{Sect} 168.1 to 168.992 applicable to petitions; penalties. [M.S.A. 5.4088(5b)]

Sec. 5b.

A petition under section 5a or 8a, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 169, Eff. (sine die)

124.506 Execution of agreement; provision of services; exchange of services.
[M.S.A. 5.4088(6)]

Sec. 6.

An interlocal agreement may provide for 1 or more parties to the agreement to administer or execute the agreement. One or more parties to the agreement may agree to provide all or a part of the services set forth in the agreement in the manner provided in the agreement. The parties may provide for the mutual exchange of services without payment of any contribution other than such services.

History: 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968

124.507 Administrative commission, board, or council; public body, corporate or politic; appointment and removal of members; operation for profit prohibited; earnings; title to property; powers; creation and power of separate legal or administrative entity; bonds or notes. [M.S.A. 5.4088(7)]

Sec. 7. (1) An interlocal agreement may provide for a separate legal or administrative entity to administer or execute the agreement which may be a commission, board, or council constituted pursuant to the agreement. The entity shall be a public body, corporate or politic for the purposes of this act. The governing body of each public agency shall appoint a member of the commission, board, or council constituted pursuant to the agreement. That member may be removed by the appointing governing body at will. The administrative or legal entity shall not be operated for profit. No part of its earnings shall inure to the benefit of a person other than the public agencies which created it. Upon termination of the interlocal agreement, title to all property owned by the entity shall vest in the public agencies which incorporated it.

(2) A separate legal or administrative entity created by an interlocal

agreement shall possess the common power specified in the agreement and may exercise it in the manner or according to the method provided in the agreement. The entity may be, in addition to its other powers, authorized in its own name to make and enter into contracts, to employ agencies or employees, to acquire, construct, manage, maintain, or operate buildings, works, or improvements, to acquire, hold, or dispose of property, to incur debts, liabilities, or obligations which, except as expressly authorized by the parties, do not constitute the debts, liabilities, or obligations of any of the parties to the agreement, to cooperate with a public agency, an agency or instrumentality of that public agency, or another legal or administrative entity created by that public agency under this act, to make loans from the proceeds of gifts, grants, assistance funds, or bequests pursuant to the terms of the interlocal agreement creating the entity, and to form other entities necessary to further the purpose of the interlocal agreement. The entity may sue and be sued in its own name.

(3) No separate legal or administrative entity created by an interlocal agreement shall possess the power or authority to levy any type of tax within the boundaries of any governmental unit participating in the interlocal agreement, or to issue any type of bond in its own name, except as provided in subsection (4), or to in any way in debt a governmental unit participating in the interlocal agreement.

(4) A separate legal or administrative entity created by an interlocal agreement with the power to receive and administer grants, gifts, bequests, or assistance funds may be authorized by the interlocal agreement to borrow money and to issue bonds or notes in its name for local public improvements or for economic development purposes as set forth in the interlocal agreement. These bonds or notes shall be secured solely by revenues derived from repayments of loans made from the proceeds of the grants, gifts, bequests, or assistance funds, and shall not be general obligations of the entity or of the public agencies which incorporated the entity. Bonds or notes issued pursuant to this subsection shall be approved by the department of treasury before their issuance but shall not otherwise be subject to the provisions of the municipal finance act, Act No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3 of the Michigan Compiled Laws. In determining whether the issuance of the bonds or notes shall be approved, the department of treasury shall take into consideration the following:

(a) Whether the bonds or notes conform to the provisions of law.

(b) Whether the probable revenue and properties pledged for the payment of the bonds or notes will be sufficient to pay the principal of and interest on the bonds or notes when due.

(c) Whether the amount of the proposed issue is sufficient or excessive for the purpose for which the bonds or notes are to be issued.

(5) Bonds or notes issued under the provisions of subsection (4) are declared to be issued for an essential public and governmental purpose, and, together with interest on those bonds or notes and income from those bonds or notes, shall be exempted from all taxes.

History: 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968;--Am. 1985, Act 10, Imd. Eff. Apr. 15, 1985

124.508 Interlocal agreement for acquisition, construction, or operation of revenue-producing facility; provisions; payments, repayments, or returns. [M.S.A. 5.4088(8)]

Sec. 8.

If the purpose set forth in an interlocal agreement is the acquisition, construction, or operation of a revenue-producing facility, the agreement may provide for the repayment or return to the parties of all or any part of the contributions, payments, or advances made by the parties pursuant to section 5, and may provide for payment to the parties of any additional sum or sums derived from the revenues of the facility irrespective of whether such contributions, payments, or advances are required to be paid, repaid, or returned from revenues of the facility. Payments, repayments, or returns shall be made at any time and in the manner specified in the agreement, and may be made at any time on or prior to the rescission or termination of the agreement, or completion of the purposes of the agreement.

History: 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968;--Am. 1981, Act 17, Imd. Eff. Apr. 29, 1981

Compiler's Notes:

Section 2 of Act 17 of 1981 provides: "This act is intended to be curative in nature and all interlocal agreements which have been approved under section 10 of Act No. 7 of the Public Acts of the Extra Session of 1967, being section 124.510 of the Michigan Compiled Laws, prior to the effective date of this amendatory act, are hereby validated."

124.508a Surcharge on households for waste reduction programs and collection of materials for recycling or composting. [M.S.A. 5.4088(8a)]

Sec. 8a. (1) Subject to the requirement of subsection (2), a county, by

resolution of the county board of commissioners of the county, or the agency responsible for preparing the solid waste management plan for counties with a population of 690,000 or more as certified by the 1980 census that do not operate under Act No. 139 of the Public Acts of 1973, being sections 45.551 to 45.573 of the Michigan Compiled Laws, or Act No. 293 of the Public Acts of 1966, being sections 45.501 to 45.521 of the Michigan Compiled Laws, as provided in part 115 (solid waste management) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.11501 to 324.11549 of the Michigan Compiled Laws, may impose a surcharge on households within the county of not more than \$2.00 per month or \$25.00 per year per household for waste reduction programs and for the collection of consumer source separated materials for recycling or composting including, but not limited to, recyclable materials, as defined in part 115 of Act No. 451 of the Public Acts of 1994, household hazardous wastes, tires, batteries, and yard clippings.

(2) A county or agency shall defer the imposition and collection of a surcharge imposed under subsection (1) in a local unit of government within that county until the county or agency has entered into an interlocal agreement under this act relating to the collection and disposition of the surcharge with the local unit of government. However, a city in a county in which the agency described in subsection (1) prepared the update to the county's solid waste management plan as provided in part 115 of Act No. 451 of the Public Acts of 1994 shall not enter into an interlocal agreement under this subsection if the city has levied a tax of 3 mills on real property within the city for the disposal or management of solid waste in that city. Petitions for a referendum election on the question of entering an interlocal agreement under this subsection may be filed with the local units clerk no later than 6 months following adoption of a resolution of the county or agency to impose the surcharge or 6 months following any increase in the surcharge. Upon petition of 10% of the qualified electors of a local unit of government voting in the last general election prior to the adoption of the interlocal agreement by the governing body, the local unit of government shall hold a referendum on whether to reject the entrance into or terminate an interlocal agreement under this subsection.

(3) As used in this section, agency does not include the department of natural resources.

History: Add. 1989, Act 138, Imd. Eff. June 29, 1989;--Am. 1996, Act 45, Imd. Eff. Feb. 26, 1996

124.509 Privileges, immunities, and benefits of officers, agents, or employees;

obligations and responsibilities of public agencies. [M.S.A. 5.4088(9)]

Sec. 9. (1) All of the privileges and immunities from liability, and exemptions from laws, ordinances and rules, and all pensions, relief, disability, workmen's compensation and other benefits which apply to the activity of officers, agency, or employees of any public agents or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents or employees extraterritorially under the provisions of any such interlocal agreement.

(2) An interlocal agreement does not relieve a public agency of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance thereof by 1 or more of the parties to the agreement or any legal or administrative entity created by the agreement in which case the performance may be offered in satisfaction of the obligation or responsibility.

History: 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968

124.510 Approval of certain agreements by governor; exclusions from funds of state; filing of interlocal agreement. [M.S.A. 5.4088(10)]

Sec. 10. (1) If funds of the state are to be allocated to carry out, in whole or in part, an agreement under this act or if the state, an agency of the United States government, any other state or political subdivision of any other state, or the Dominion of Canada or a political subdivision of the Dominion of Canada, is a party to an agreement under this act, an interlocal agreement, prior to and as a condition precedent to its effectiveness, shall be submitted to the governor who shall determine whether the agreement is in proper form and compatible with the laws of this state.

(2) For the purposes of this section, funds of the state do not include grants, gifts, bequests, or assistance funds given to a public agency which is a party to an interlocal agreement if the purpose of that agreement is to administer those grants, gifts, bequests, or assistance funds according to their terms or to combine the proceeds of the parties' grants, gifts, bequests, or assistance funds for investment purposes.

(3) The governor shall approve an agreement submitted to him or her unless the governor finds that the agreement does not meet the conditions set forth in this act or is not compatible with the laws of this

state. If the governor so finds, the governor shall detail in writing addressed to the governing bodies of the public agencies concerned within 90 days the specific respects in which the proposed interlocal agreement fails to meet the requirements of law. The governing bodies of the public agencies concerned shall have 60 days to resubmit the revised interlocal agreement to the governor who shall approve or disapprove the agreement within 90 days.

(4) Prior to its effectiveness an interlocal agreement shall be filed with the county clerk of each county where a party to the agreement is located and with the secretary of state.

History: 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968;--Am. 1985, Act 10, Imd. Eff. Apr. 15, 1985

124.511 Provision of services or facilities by state officers or agencies; submission of agreement for approval. [M.S.A. 5.4088(11)]

Sec. 11.

If an interlocal agreement deals in whole or in part with the provision of services or facilities as to which an officer or agency of the state has constitutional or statutory responsibilities and powers of control, the agreement, as a condition precedent to its effectiveness, shall be submitted to the state officer or agency having such responsibilities and powers of control and shall be approved or disapproved by him or it as to all matters under his or its jurisdiction in the same manner and subject to the same requirements governing the action of the governor pursuant to Section 10. This requirement of submission and approval is in addition to and not in substitution for the requirement of approval by the attorney general.

History: 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968

124.512 Appropriation of funds by public agency; sale, lease, or gift of personnel, services, facilities; receipt of grants-in-aid. [M.S.A. 5.4088(12)]

Sec. 12. (1) A public agency entering into an interlocal agreement may appropriate funds and may sell, lease, give or otherwise supply any party designated to operate the joint or cooperative undertaking such personnel, services, facilities, property, franchises or funds therefor as may be within its legal power to furnish.

(2) A public agency entering into an interlocal agreement may receive grants-in-aid or other assistance funds from the United States government, the state of Michigan, or the Dominion of Canada for use in carrying out the purposes of the interlocal agreement.

History: 1967, Ex. Sess., Act 7, Eff. Mar. 22, 1968

ATTACHMENT 2

INTERGOVERNMENTAL TRANSFERS OF FUNCTIONS AND RESPONSIBILITIES Act 8 of 1967 (Ex. Sess.) 1967, Ex. Sess., Act 8, Eff. Mar. 22, 1968

AN ACT to provide for intergovernmental transfers of functions and responsibilities.

The People of the State of Michigan Enact

124.531 Definitions. [M.S.A. 5.4087(1)]

Sec. 1.

As used in this act:

(a) "Governing body" means the board, council or body in which the legislative powers of a political subdivision are vested.

(b) "Political subdivision" means a city, village, other incorporated political subdivision, county, school district, community college, intermediate school district, township, charter township, special district or authority.

History: 1967, Ex. Sess., Act 8, Eff. Mar. 22, 1968

124.532 Authority to contract for transfer of functions or responsibilities. [M.S.A. 5.4087(2)]

Sec. 2.

Two or more political subdivisions are authorized to enter into a contract with each other providing for the transfer of functions or responsibilities to one another or any combination thereof upon the consent of each political subdivision involved.

History: 1967, Ex. Sess., Act 8, Eff. Mar. 22, 1968

124.533 Valid contracts; conditions. [M.S.A. 5.4087(3)]

Sec. 3.

To enter into a valid contract:

- (a) The contract shall be approved by concurrent resolution of the governing body of each political subdivision.
- (b) The terms of the contract shall be entered in the journal or minutes of proceedings of the governing body of each political subdivision.
- (c) A copy of the contract shall be filed with the secretary of state prior to its effective date.

History: 1967, Ex. Sess., Act 8, Eff. Mar. 22, 1968

124.534 Contents of contracts. [M.S.A. 5.4087(4)]

Sec. 4.

A contract shall include:

- (a) A description of the functions or responsibilities to be transferred.
- (b) The effective date of the contract.
- (c) The term of operation under the contract.
- (d) The manner in which the affected employees, if any, of the participating political subdivisions shall be transferred, reassigned or otherwise treated subject to the following:
 - (i) Such employees as are necessary for the operation thereof shall be transferred to and appointed as employees subject to all rights and benefits. These employees shall be given seniority credits and sick leave, vacation, insurance and pension credits in accordance with the records or labor agreements from the acquired system. Members and beneficiaries of any pension or retirement system or other benefits established by the acquired system shall continue to have rights, privileges, benefits, obligations and status with respect to such established system. The political subdivision to which the functions or responsibilities have been transferred shall assume the obligations of any system acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare and pension or

retirement provisions for employees. If the employees of an acquired system were not guaranteed sick leave, health and welfare and pension or retirement pay based on seniority, the political subdivision shall not be required to provide these benefits retroactively.

(ii) No employee who is transferred to a position with the political subdivision shall by reason of such transfer be placed in any worse position with respect to workmen's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance or any other benefits that he enjoyed as an employee of such acquired system.

(e) The manner in which any real property, facilities, equipment or other personal property required in the execution of the contract shall be transferred, sold or otherwise disposed of between the contracting parties.

(f) The method of financing to be used and the amount to be paid by each of the participating units in relation to the undertaking involved.

(g) Other legal, financial and administrative arrangements necessary to effectuate the undertaking.

History: 1967, Ex. Sess., Act 8, Eff. Mar. 22, 1968

124.535 Joint board or commission; establishment; duty; membership.
[M.S.A. 5.4087(5)]

Sec. 5.

A joint board or commission may be established by the political subdivisions involved to supervise the execution of a contract. An officer or employee of the state or a political subdivision or agency thereof, except a member of the legislature, may serve on or with any joint board or commission created by the contract and shall not be required to relinquish his office or employment by reason of such service.

History: 1967, Ex. Sess., Act 8, Eff. Mar. 22, 1968

124.536 Amendment or termination of contract. [M.S.A. 5.4087(6)]

Sec. 6.

A contract may be amended by agreement of the parties thereto in the same manner as the original contract was made. A contract may be terminated by joint action of all parties, or by an individual party not less than 1 year after its notice thereof in writing to all other parties.

History: 1967, Ex. Sess., Act 8, Eff. Mar. 22, 1968